

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Irrigation and C.A.D. Department – Allegation of corruption against Sri M. Sree Ramachandra Murthy, Assistant Engineer (Retd.), formerly Irrigation Department, Tapeswaram Section, Mandapeta Mandal, East Godavari District – Trapped by the Anti-Corruption Bureau on 07.08.2002 – Placed on his defence before the Tribunal for Disciplinary Proceedings – Personal hearing conducted – Imposition of major penalty of 15% cut in pension permanently – Awarded – Orders - Issued.

IRRIGATION AND COMMAND AREA DEVELOPMENT (SER.VI-1) DEPARTMENT

G.O.Ms.No. 143

Dated: 14.12.2012.
Read the following:-

- 1) From the Director General, A.C.B., Hyderabad, Lr.Rc.No.197/RCT-REG/2000, dated 26.11.2002.
- 2) Govt. Letter No.26500/Ser.VI-1/2002-5, dated 15.01.2003.
- 3) From the Secretary, Tribunal for Disciplinary Proceedings, Hyderabad, Lr.No.S/5/2004, dated 16.04.2004.
- 4) Govt.Memo.No.26500/Ser.VI-1/2002-19, dated 20.05.2005.
- 5) From Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) representation, dated 26.07.2005.
- 6) G.O.Ms.No.69, Irrigation & CAD (Ser.VI-1) Department, dated 14.09.2006.
- 7) From Sri. M. Sree Ramachandra Murthy, Assistant Engineer. (Retd.) review petition, dated 02.01.2007.
- 8) Govt.Memo.No.240/Ser.VI-1/2007-1, dated 20.01.2007.
- 9) Andhra Pradesh Administrative Tribunal orders, dated 05.09.2011 in O.A.No.2605 of 2009 filed by Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.).
- 10) Govt.Memo.No.3906/Ser.VI-1/2009-29, dated 17.11.2012.
- 11) From Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) representation, dated 22.11.2012.
- 12) G.O.Ms.No.142, Irrigation & C.A.D. (Ser.VI-1) Department, dated 14.12.2012.

ORDER:-

It has been brought to the notice of the Government by the Investigating Agency that Sri. M. Sree Ramachandra Murthy, while working as Assistant Engineer, Irrigation Department, Tapeswaram Section, Mandapeta (M), East Godavari district demanded and accepted an amount of Rs.2,000/- as illegal gratification other than legal remuneration from the complainant Sri. Saladi Venkateswara Rao of Tapeswaram on 07.08.2002 at 9.45 A.M. in his office room for showing official favour to make entries in the M. Book and get the check measurements approved by the Deputy Executive Engineer concerned as a prerequisite to the release of 2.5 tonnes of rice under food for work programme.

2. In the reference 1st read above, the Director General, Anti-Corruption Bureau, Hyderabad has recommended to place Sri. M. Sree Ramachandra Murthy, Assistant Engineer, Irrigation Department, Tapeswaram Section, Mandapeta Mandal, East Godavari district on his defence before the Tribunal for Disciplinary Proceedings. Government after careful examination of the matter, placed Sri. M. Sree Ramachandra Murthy, Assistant Engineer on his defence before the Tribunal for Disciplinary Proceedings on the above allegations under Rule 3 of Andhra Pradesh Civil Services (DPT) Rules, 1989 vide reference 2nd read above.

(P.T.O.)

3. In the reference 3rd read above, the Tribunal for Disciplinary Proceedings in T.E.C.No.61/2003, dated 16.04.2004 held that the Charged Officer Sri M. Sree Ramachandra Murthy, Assistant Engineer was found not guilty of the charge with which he was charged and consequently he was liable to be fully exonerated.

4. Government examined the report of the Tribunal for Disciplinary Proceedings carefully and it was decided to disagree with the findings of the Tribunal for Disciplinary Proceedings on the following grounds:-

“The report of Tribunal that the case of the “prosecution” is that the charged officer demanded and obtained Rs.2000/- as illegal gratification from the complainant as borne out by the complaint/FIR, the mediator reports embodying the pre-trap and post-trap proceedings and the attendant circumstances. The tainted money was recovered from the charged officer, from his right-side pant pocket, on production by him, and the phenolphthalein test on the hands and the pant pocket was positive. The charged officer admitted that he received the money but did not demand. On the arrival of the trap party, he started shivering and rubbing his hands.

It is further observed that, the complainant however turned hostile before the Tribunal and deposed that when he tried to give the tainted amount of Rs.2000/- to the charged officer he caught hold of his hand and pushed him aside and told him that he did not require the tainted amount and that on his own accord he kept the tainted amount in his pant pocket. It is a contradiction in terms and betrays confused thinking. If the charged officer did not want the money and warded off the complainant’s attempt to pass it on, it goes without saying that he should have and would have resisted any move on the part of the complainant to put the money in his pocket and he would not have retained it without discarding. It only implies that the charged officer acquiesced and accepted the money and pocketed it himself. There is no motive for the complainant, much less for the ACB D.S.P. to foist an out-and-out false case against the charged officer.

The Supreme Court in the case of M. Narasing Rao Vs. State of Andhra Pradesh (2001 CrL.J. SC 515) on the aspect of appreciation of hostile evidence, where the complainant and the accompanying witness denied having paid any bribe to the appellant and also denied that the appellant demanded the bribe amount and the trial court and the High Court disbelieved the defence evidence in toto and found that the complainant and the accompanying witness were won over by the appellant and that is why they turned against their own version recorded by the Investigating Officer and subsequently by a Magistrate under section 164 Cr.P.C.

The Tribunal ought to have discerned the patent truth and dismissed the defence story as a figment of imagination.”

Accordingly, while communicating a copy of the report of Tribunal for Disciplinary Proceedings along with the above disagreement factors, Sri. M. Sree Ramachandra Murthy, Assistant Engineer was directed to submit his explanation as to why the punishment should not be imposed against him under Rule 9 of the Andhra Pradesh Revised Pension Rules, 1980 as he retired from service on attaining the age of superannuation on 31.05.2003 vide reference 4th read above.

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5. In the reference 5th read above, Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) has submitted his representation to the Government, requesting to drop the action against him as per the recommendation of the Tribunal for Disciplinary Proceedings and to release all pensionary benefits in the interest of natural justice.

6. Government have examined the explanation submitted by Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) and it was decided to impose 15% cut in pension permanently on him, and accordingly, orders were issued in the G.O. 6th read above, imposing the punishment of 15% cut in pension permanently on Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) on the allegation of acceptance of bribe in exercise of the powers conferred under rule 9 of Andhra Pradesh Revised Pension Rules, 1980. Subsequently, Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) submitted a review petition vide reference 7th read above, requesting to release his full pension and consider his suspension period as duty period and issue orders sympathetically. The same was examined by the Government and the review petition was rejected, as there were no fresh grounds or evidences adduced by him, vide reference 8th read above.

7. Aggrieved by the above orders, Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) has filed an O.A.No.2605 of 2009 before the Andhra Pradesh Administrative Tribunal, and in the reference 9th read above, the Andhra Pradesh Administrative Tribunal in its orders dated 05.09.2011 in O.A.No.2605 of 2009 has set aside the impugned orders issued in G.O.Ms.No.69, Irrigation & C.A.D. (Ser.VI) Department, dated 14.09.2006 and Govt.Memo.No.240/Ser.VI(1)/2007-1, dated 20.01.2007 on the ground that the Government when differing with the report of the Tribunal for Disciplinary Proceedings did not give reasons for disagreeing with the report of the Tribunal for Disciplinary Proceedings and for not giving personal hearing to the delinquent to defence his case and directed to release the pensionary benefits including the amount which was withheld towards 15% cut in pension.

8. Government have examined the orders of Andhra Pradesh Administrative Tribunal, Hyderabad dated 05.09.2011 in O.A.No.2605 of 2009, and it has been decided to cancel the orders issued in the references 6th & 8th read above, and also to provide an opportunity of personal hearing to the applicant to present his case before the disciplinary authority in the light of the observations of Andhra Pradesh Administrative Tribunal. Accordingly, orders were issued by cancelling the orders issued in the references 6th & 8th read above, in order to comply with the directions of the Andhra Pradesh Administrative Tribunal, Hyderabad vide reference 12th read above. In the reference 10th read above, Sri M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) was directed to appear before the disciplinary authority i.e., Principal Secretary to Government, Irrigation & C.A.D. Department, A.P. Secretariat, Hyderabad in his office chambers on 22.11.2012 at 12.00 noon, to present his case.

9. In pursuance of the directions of the Government, Sri M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) has attended for personal hearing before the disciplinary authority i.e., Principal Secretary to Government, Irrigation & CAD Department, A.P. Secretariat, Hyderabad on 22.11.2012 at 12.00 noon and requested to drop all further enquiries in the interest of justice and to release all his entire terminal benefits including the amount which was held towards 15% cut in pension. In the reference 11th read above, he has also submitted a representation to the disciplinary authority during personal hearing, stating that the Andhra Pradesh Administrative Tribunal not given any direction to re-enquire the matter, the Andhra Pradesh Administrative Tribunal declared that the G.O.Ms.No.69, Irrigation & C.A.D. (Ser.VI-1) Department, dated 14.09.2006 and the Memo.No.240/Ser.VI-1/2007-1, dated 20.01.2007 are illegal and arbitrary; and that the orders of the Andhra Pradesh Administrative Tribunal in O.A.No.2605 of 2009 are final, unchallenged one and it is in force.

(P.T.O.)

10. In the light of the observations of the Andhra Pradesh Administrative Tribunal, Hyderabad dated 05.09.2011 in O.A.No.2605 of 2009, Government have examined the each contention raised by the charged officer in his representation dated 26.07.2005 in response to the Govt. Memo.No.26500/Ser.VI-1/2002-19, dated 20.05.2005, it is observed on each contention as follows:-

CONTENTION OF THE CHARGED OFFICER	OBSERVATIONS
1) that, the Investigating Agency examined as many as 13 witnesses and shown 16 witnesses in the list of memo. of evidence but the Prosecution examined only (7) and given up the material witnesses. If the Prosecution examined LW.10 and 11 particularly L.W.11 who was alleged to be present in his office at the time the PW.1 (Complainant) inserted the tainted amount in his pocket;	His contention should have brought to the notice of the Tribunal for Disciplinary Proceedings during arguments, but not before the disciplinary authority as the disciplinary authority is not competent to do so.
2) that, after clean scrutiny of his case record, the ACB authorities recommended his case for TDP enquiry, as there is no evidence to prosecute him;	It is the discretionary power of the disciplinary authority, as he is not competent to say that there is no evidence to prosecute him.
3) that, there is provision in the TDP Rules/Act to declare a witness as a hostile witness;	The contention is under the purview of the Tribunal for Disciplinary Proceedings, not under the purview of the disciplinary authority.
4) that, the complainant himself has realized the injustice done to him in the initial stage of investigation itself and stated all real facts in his statement before the Magistrate under 164 Cr. P.C. Therefore, it cannot be treated as resiled or hostile;	He himself admitted that he received the money, but did not demand. Thus, it appears, he received money for showing official favour.
5) that, the mediator (PW.5) clearly admitted that the charged officer signed on the statement recorded by Deputy Superintendent of Police. But the Investigating Agency did not put the said statement into the light of Tribunal;	His contention should have brought to the notice of the Tribunal for Disciplinary Proceedings during arguments, but not before the disciplinary authority.
6) that, it was stated that the C.O. admitted that he received the money but did not demand. The Deputy Superintendent of Police admitted that he conducted investigation as per the provisions of 156 Cr. P.C. is not tenable under the Law;	His contention should have brought to the notice of the Tribunal for Disciplinary Proceedings during arguments, but not before the disciplinary authority.
7) that, it was pointed out that on the arrival of trap party, he started shivering and rubbing his hands. It was stated only in the Mediator report. But the same was not stated before the Magistrate, while recording 164 Cr. P.C. Statement or during the enquiry by the TDP. It is quite natural for every officer to stand from chair to wish the officers. He simply stood from chair and wished the officer. It cannot be taken into consideration that the officer is guilty.	If he was not received the money actually, why he was shivering on the arrival of the trap party. However, the contention should have brought to the notice of the Tribunal for Disciplinary Proceedings during arguments, but not before the disciplinary authority.

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8) That, the tainted amount was forcibly thrust by the complainant in his pocket. The complainant also corroborated the same.	It is evident that the tainted money was recovered from the right-side pant pocket of the Charged Officer and the phenolphthalein test on the hands and the pant pocket was positive. Hence, the contention of the Charged Officer seems to be second thought of the complainant.
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11. In view of the above, it is felt that the contentions of the Charged Officer as raised in his explanation / review petition in the references 5th & 7th read above, did not find any merit, and accordingly, Government have decided to impose a major penalty of 15% cut in pension permanently on Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.) in order to comply with the directions of the Andhra Pradesh Administrative Tribunal dated 05.09.2011 in O.A.No.2605 of 2009. Accordingly, Government hereby impose the penalty of 15% cut in pension permanently on Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.).

12. The Engineer-in-Chief (A.W.), Irrigation & C.A.D. Department, Hyderabad shall take further necessary action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**SHAILENDRA KUMAR JOSHI
PRINCIPAL SECRETARY TO GOVERNMENT**

To
Sri. M. Sree Ramachandra Murthy, Assistant Engineer (Retd.), Irrigation Department, Tapeswaram Section, Mandapet (M), East Godavari district through Engineer-in-Chief (A.W.), Irrigation & C.A.D. Department, Hyderabad.
The Engineer-in-Chief (A.W.), Irrigation & C.A.D. Department, Hyderabad.
The Director General, Anti-Corruption Bureau, Hyderabad.
The Secretary to Vigilance Commission, A.P. Vigilance Commission, Hyderabad.
The Accountant General (A & E), Andhra Pradesh, Hyderabad.
The Government Pleader for Irrigation & C.A.D. Department (Services), Andhra Pradesh Administrative Tribunal, Hyderabad.
Law (B) Department.
SF/SC

//FORWARDED::BY ORDER//

SECTION OFFICER

